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CC96-98

Ameritech

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Gary R. Lytle
Vice President
Federal Relations

April 12, 1996

The Honorable Reed E. Hundt
Chairman, Federal Communications Commission
1919 M Street, NW
Room 814
Washington, DC 20554

Dear Chairman Hundt:

On March 25, 1996, Ameritech sent notice to certain LECs to terminate existing Extended Area Service (EAS) compensation arrangements and to open negotiations to establish new compensation arrangements under section 251 and 252 of the Telecommunications Act of 1996 ("the Act"). A sample notice letter is attached.

Recently you may have received a copy of a letter circulated by Richard J. Metzger, General Counsel of the Association for Local Telecommunications Services ("ALTS", see attached ALTS letter). ALTS has mischaracterized Ameritech's intentions and has offered a twisted and obviously inaccurate interpretation of the Act in its recent letter. In summary, ALTS is complaining because Ameritech is attempting to reach nondiscriminatory reciprocal compensation arrangements with all LECs which include compensation for the cost of terminating traffic. Ameritech is responding because ALTS' assertions only serve to cloud the understanding of the business activities that face the industry and regulatory agencies as they implement the competitive framework envisioned by the Act.

Ameritech Is Negotiating Reciprocal Compensation For Local Traffic With All Carriers

Consistent with the Act, Ameritech plans to negotiate compensatory local reciprocal compensation arrangements under section 251 and 252 of the Act with all local exchange carriers including new entrants.[1] To satisfy concerns about equal treatment, ALTS members and any other carrier will be able to see the results of such completed negotiations as they are filed with state commissions for approval under section 252 (a) and (e). ALTS claim that Ameritech would "hide the arrangements from the Commission's jurisdiction" is baseless since any negotiated agreements under the Act will be filed with the state commissions.

Ameritech is terminating existing EAS compensation arrangements which are based on unmeasured "bill and keep" because such arrangements may not always be compensatory and no longer comport with the competitive environment established under the Act.[2] In a competitive environment, customers will change providers, traffic flows will change, and adjacent carriers, which formerly did not compete for customers, have the opportunity to compete alone or in combination with other providers. This new environment calls for a migration away from the

[1] Section 251 (b) (5) of the Act establishes "The duty to establish reciprocal compensation arrangements for the transport and termination of telecommunications."

[2] See also In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers, CC Docket No. 95-185, Comments of Ameritech, Statement of Kenneth Gordon.

vestige of yesterday's regulatory environment (EAS bill and keep) towards the negotiated reciprocal compensation principles established in the Act.[3] Just as other aspects of the old monopoly environment must change to facilitate the introduction of competition, so too must LEC local compensation arrangements be modified in order to reflect the true cost of providing service. ALTS simply wishes to gain a free ride that could occur if it can convince regulators to mandate bill and keep in a competitive environment. The result, if traffic flows and costs between competitors are not equal, may be to force the customers of the incumbent LEC to subsidize the operations of the entrant. In a competitive environment, this simply is not good economics.

ALTS Misinterprets The Act And Omits Critical Language Regarding Agreements Negotiated Under The Act

Contrary to ALTS' argument, there is no general obligation under the Act to file pre-Act interconnection agreements for approval by the state commission. The bankruptcy of ALTS' argument is demonstrated by its curious omission of the language of section 252 (a). Section 252 (a) of the Act provides:

> Upon receiving a request for interconnection, services, or network elements pursuant to section 251, an incumbent local exchange carrier may negotiate and enter into a binding agreement with the requesting telecommunications carrier or carriers without regard to the standards set forth in subsections (b) and (c) of section 251. The agreement shall include a detailed schedule of itemized charges for interconnection and each service or network element included in the agreement. The agreement, including any interconnection agreement negotiated before the enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section.

By deleting the first three words of the last sentence of the section (underlined above), ALTS has totally altered the meaning of the Act. The language of the entire section clearly creates a voluntary procedure in which parties "may negotiate and enter into a binding agreement."

This identical argument was pressed on the Michigan Public Service Commission (MPSC) by AT&T who petitioned the MPSC for an order requiring the production and approval of pre-Act incumbent LEC arrangements. Earlier this week, the MPSC expressly rejected AT&T's request. In denying AT&T's petition, the MPSC concluded:

> "Further, the Act neither provides for a third party to petition for the commencement of a proceeding to force a LEC to comply with the Act, nor does the Act explicitly authorize a state commission to authorize such a proceeding" (Order attached).

[3] Ameritech is responding to the Act's clear mandate that interconnection be provided pursuant to reciprocal compensation arrangements in accordance with the requirements of Section 252 (d). See Section 252 (c) (2) of the Act. Section 252 (d) (2) makes clear that an incumbent LEC's reciprocal compensation arrangements must "provide for the mutual and reciprocal recovery of costs associated with the transport and termination on each carrier's network facilities of calls that originate on the network facilities of the other carrier...".

To conclude, Ameritech plans to negotiate with both competing carriers and incumbent LECs to achieve the compensatory and nondiscriminatory principles of reciprocal compensation under the Act. Completed negotiated agreements will be filed with the state commissions for approval.

I would be happy to discuss this matter with you at your convenience.

Sincerely,

Gary R Leytle

Attachments

cc: Commissioner Chong
Commissioner Ness
Commissioner Quello

Telephone Industry Services
2000 West Ameritech Center Drive
2526
Hoffman Estates, IL 60196-1025
Office 708/248-3320
Fax 708/248-6621

Michael D. Robb
Vice President-Marketing
Usage Services

Ameritech

March 25, 1996

Dear

Ameritech has determined that the recently enacted Telecommunications Act of 1996 (the "Act") requires changes to our arrangements with connecting carriers. Specifically, the Extended Area Service ("EAS") compensation arrangements between our companies relating to the exchange of local traffic are not consistent with the Act.

Therefore, by this letter the Ameritech Operating Companies hereby notify you that they are exercising their contractual right to terminate the existing EAS compensation arrangement between our two companies. This termination affects the compensation arrangement only; it is not our intent to discontinue the exchange of traffic between our two companies.

In addition, pursuant to Sections 251 and 252 of the Act, the Ameritech Operating Companies request that we begin negotiations in order to conform all of our interconnection arrangements to the provisions of the Act. As a first step, we must move quickly to establish a new reciprocal compensation arrangement for the termination of local traffic.

Please call me at (847)248-3320 at your earliest convenience. I propose that we begin negotiations no later than the week of April 8, so that we may mutually complete the task ahead as soon as is practicable.

Michael D. Robb

STATE OF MICHIGAN

BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

* * * * *

In the matter of the petition of AT&T COMMUNICATIONS OF MICHIGAN, INC., for a Commission order requiring local exchange carriers to comply with provisions of the federal Telecommunications Act of 1996.	Case No. U-11056

At the April 10, 1996 meeting of the Michigan Public Service Commission in Lansing, Michigan.

PRESENT: Hon. John G. Strand, Chairman
Hon. John C. Shea, Commissioner
Hon. David A. Svanda, Commissioner

ORDER DENYING PETITION

On March 1, 1996, AT&T Communications of Michigan, Inc., (AT&T) filed a petition requesting the Commission to order all local exchange carriers (LECs) in Michigan to comply with certain provisions of the Telecommunications Act of 1996, which amended the Communications Act of 1934, 47 USC 151 et seq. (the Act). According to AT&T, LECs are obligated by Section 251 of the Act to discontinue discriminatory provisioning of telecommunication services. AT&T insists that the Commission should act swiftly to require LECs to submit each of their existing interconnection and service agreements to the Commission for approval, to file tariffs that remove all restrictions on the resale of services to end-users, and to file copies of all existing contracts for the provision of service to end-users.

The Commission finds that the relief requested by AT&T's March 1, 1996 petition should not be granted. Although Section 251 of the Act imposes certain obligations on LECs[1] and Section 252 authorizes the Commission to accept filings and make determinations on certain issues, the Act is silent regarding timetables for LECs to seek Commission approval of interconnection agreements and service contracts or to file new, nondiscriminatory tariffs. Further, the Act neither provides for a third party to petition for the commencement of a proceeding to force an LEC to comply with the Act, nor does the Act explicitly authorize a state commission to conduct such a proceeding.

The Commission notes that Congress has given the Federal Communications Commission (FCC) several months to adopt new regulations to facilitate implementation of the federal Act. Accordingly, the Commission is persuaded that its dismissal of AT&T's petition at this time should not prejudice a subsequent effort by either AT&T or any other interested party to obtain a determination from the Commission regarding the issues presented by the March 1, 1996 petition.

In reaching this decision, the Commission stresses that its role in the implementation of the federal Act and in the task of implementing state policy in the face of potentially

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[1]Section 251(a) of the Act, which became effective February 8, 1996, obligates all telecommunication carriers to interconnect with the facilities and equipment of other telecommunication carriers. Section 251(b) of the Act imposes additional obligations on all LECs with regard to the resale of telecommunication services, number portability, dialing parity, access to rights-of-way, and reciprocal compensation arrangements. In addition, Section 251(c) obligates incumbent LECs to negotiate in good faith regarding interconnections, unbundling access to network elements, the collocation of equipment necessary for interconnection or access to unbundled network elements at the premises of the LEC, and to provide reasonable public notice of changes in the information necessary for the transmission and routing of services using the LEC's facilities and networks. However, the requirements contained in Sections 251(b) and 251(c) of the Act are subject to certain exemptions, suspensions, and modifications contained in Section 251(f) that are designed to protect rural telephone companies and rural carriers.

conflicting provisions of federal law should be approached and determined on a case-by-case basis. In addition to the authority that the Commission may exercise pursuant to the federal Act, the Michigan Telecommunications Act, 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq., has placed the responsibility for the investigation and resolution of customer complaints and disputes between providers on the Commission. Because the issues that will need to be resolved are complex and intertwined, the Commission finds that its resources and the resources of the industry can be used most efficiently if they are expended in response to matters that are brought to its attention in the form of applications and complaints by persons having a direct interest in their outcome. Accordingly, in situations where the Commission's authority to act upon an application or complaint is established by law, the Commission stands ready to do so without awaiting further action by the FCC.

The Commission FINDS that:

a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; MSA 22.1469(101) et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; MSA 3.560(101) et seq.; and the Commission's Rules of Practice and Procedure, 1992 AACS, R 460.17101 et seq.

b. AT&T's March 1, 1996 petition should be dismissed without prejudice.

THEREFORE, IT IS ORDERED that the March 1, 1996 petition filed by AT&T Communications of Michigan, Inc., is dismissed without prejudice.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26; MSA 22.45.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ John G. Strand
Chairman

(SEAL)

/s/ John C. Shea
Commissioner

/s/ David A. Svanda
Commissioner

By its action of April 10, 1996.

/s/ Dorothy Wideman
Its Executive Secretary

ALTS
Association for Local Telecommunications Services

DIRECT DIAL: (202) 466-3046

RICHARD J. METZGER
GENERAL COUNSEL

April 1, 1996

Honorable Craig A. Glazer
Chairman, Ohio Public Utilities Commission
180 East Broad Street
Colombus, OH 43215-3793

Dear Chairman Glazer:

The recently enacted Telecommunications Act of 1996 requires incumbent local exchange carriers ("ILECs") to submit their interconnection agreements as they existed on February 8, 1996, for state review and approval (see Section 252(a)(1): any " ... interconnection agreement negotiated before the date of enactment of the Telecommunications Act of 1996, shall be submitted to the State commission under subsection (e) of this section;" emphasis supplied). Once such negotiated agreements are approved by a state pursuant to Section 252(e)(2)(A), ILECs must make them available to other requesting carriers (Section 252(i)).

Despite this clear statutory requirement, we understand that Ameritech has not yet submitted to you any of its existing interconnection agreements for approval, and, in fact, is now attempting to cancel some of its most important existing arrangements (see the attached letter dated March 25, 1996, from Mr. Michael Robb, Vice President of the Ameritech business unit responsible for dealing with independent telephone companies). Ameritech apparently seeks to terminate its existing EAS agreements with independent telephone companies ("ITCs") because: " ... the Extended Area Service ('EAS') compensation arrangements between our companies relating to the exchange of local traffic are not consistent with the Act ... Therefore, by this letter the Ameritech Operating Companies hereby notify you that they are exercising their contractual right to terminate the existing EAS compensation arrangement between our two companies ... I propose that we begin negotiations no later than the week of April 8, so that we may mutually complete the task ahead as soon as is practicable."

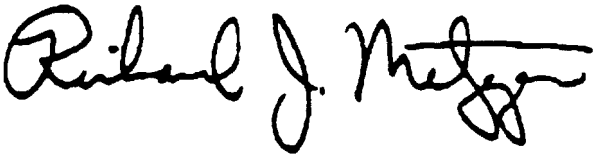
Putting aside for the moment whether Ameritech can legally terminate EAS arrangements imposed by Commission order, it is manifest that Ameritech is rushing to cancel its existing EAS arrangements in order to hide them from the Commission's jurisdiction -- and from Ameritech's potential local competitors -- not to cure any perceived "inconsistency" with the Act. If there were any question whether existing EAS

arrangements or any other form of interconnection agreements violate the Act, that issue should be settled by the Commission acting in a public docket, rather than being left to secret dealings among existing monopoly providers. If Ameritech's professed concerns are legitimate, they should be able to withstand the light of day. And if they are not, all the more reason for the Commission to act vigorously to protect its statutory role of reviewing existing interconnection arrangements.

On behalf of the competitive local exchange industry, including the members of ALTS which wish to compete for local customers currently served only by Ameritech, I urge the Commission to protect its statutory role, as well as the public's interest in vigorous competition, by ordering that Ameritech comply with the Act. In light of Ameritech's stated intention of completing its planned cancellations "as soon as possible," I respectfully ask that the Commission direct Ameritech to file all its interconnection agreements as they existed on February 8, 1996, including all its EAS arrangements, within ten days of its order, and prohibit any further action by Ameritech concerning these agreeements until the Commission completes its Section 252(e) review process.

I would be happy to discuss this matter with you at your convenience.

Best regards,



cc. All Commissioners
Counsel for Ameritech
NARUC Subcommittee on Communications
Federal Communications Commission
United States Department of Justice